

**REMARKS:**

Claims 1-25 are in the case and presented for re-consideration.

Claim 1 has been amended to better explain that to the flexible foam material making up the first panel has its variable thickness, both before and after it is molded into the product. This variation in thickness includes a thicker region away from the perimeter and also a thickest region over the nipple area of the breast cup.

While the invention is directed to the molded breast cup and not to a method for making the product, it is significant that the first panel have its variable thickness both before and after it is molded, since this produces a different final product than if the panel was initially uniform in thickness and then was made variable during the molding process. The reason for this is that by changing the thickness of the initially flat foam material after the molding process, the regions at the perimeter must be denser than the regions at the center since the same amount of material must be squeezed into a thinner space.

According to the present invention, by providing the first flexible foam material panel to have an initial variation in thickness and a final variation in thickness both before and after the molding process, the final breast pad has a substantially more uniform density while still having extra padding over the nipple area. As a result a much lighter brassier is possible which uses padding only where it is desired, namely to mask the nipple area, and leaves very little padding elsewhere.

The examiner has rejected claims 1, 3, 5, 9-14, 16-20 as being fully anticipated by U.S. patent 4,080,416 the Howard.

Dependant claims 2, 6, 7, 8 and 15 are also rejected as obvious from the Howard patent taken in view of U.S. Patent 6,042,608 to Isikawa et al. and U.S. Patent 2,727,278 to Thompson.

While applicants gratefully acknowledge the examiners indication of allowability for claim 4, it is believed that the applicants are entitled to additional patent protection for the reasons set forth below.

Howard discloses a breast cup and method of making the same which can use either fibrous materials or polyurethane foam padding as a starting material. See Fig. 12 in particular. The present invention is limited specifically to flexible foam material for the panel having variable thickness and this is important since there must also be a commercially feasible mechanism for establishing the variable contour of the panel before it is molded. According to the present invention, a preferred mechanism for doing this is by shaving. See the specification at page 8, lines 26-28, for example. Turning to the Howard reference, the skilled artisan must first decide that a panel having initially varying thickness must be used, contrary to the clear teaching of Howard, and then the skilled artisan must eliminate fibrous material and select only the foam material of Howard since there is no easy mechanism for varying the thickness of fibrous material. Certainly shaving is not possible since shaving is particularly suited for foam material. The skilled artisan reading Howard thus has insufficient information and certainly no motivation to limit the

structure to foam material and then to provide a first flexible foam panel that has both an initial variation in thickness, specifically a thicker region over the nipple area, and to maintain this thicker region even after molding.

The Isikawa reference does not help since firstly it advocates the use of gel material, clearly undesirable for the lightweight structure of the present invention and specifically excluded from the claimed subject matter, and secondly there is again no teaching for an initially varying thickness foam material panel (see the various parts of Fig. 3 of the reference for example, where the initial variation is only provided for the heavy silicone material, and see the various parts of Fig. 5 of the reference). However, combining Howard and Isikawa what actually draw the skilled artisan further away from the claim invention rather than toward it.

Thompson also does not motivate the skilled artisan to produce the light, thin, flexible cup of the present invention, but rather uses heavy liquid latex foam which admittedly has a thicker nipple area but this is to accentuate rather than smooth out and hide the nipple area. Claim 1 has been modified in this regard as well to explain that the variation in thickness of the first panel over the nipple area is particularly so that the nipple of the wearer remains unnoticeable. See the specifications at page 1, lines 20-22.

Clearly Thompson suggests the contrary structure and achieves a contrary effect, namely accentuating the nipple area.

One additional point is that the variation in thickness taught by Howard is at best

incidental. Fig. 4 of Howard, for example, seems to show a void between the male and female mold parts that increases in thickness toward the apex of the cup but nothing in Howard actually explains or teaches this variation, or where it should be located or why it should be present.

Accordingly, the application and claims are now believed to be in conditional amounts and further favorable action is respectfully requested.

Respectfully submitted,



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